

KANSAS MEDICAID STATE PLAN

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30-10-223. ICF-MR interest expense. (a) Only necessary and proper interest on working capital indebtedness shall be an allowable cost.

(b) The interest expense shall be incurred on indebtedness established with:

(1) Lenders or lending organizations not related to the borrower; or

(2) partners, stockholders, home office organizations, or related parties, if the following conditions are met:

(A) The terms and conditions of payment of the loans shall resemble terms and conditions of an arms-length transaction by a prudent borrower with a recognized, local lending institution with the capability of entering into a transaction of the required magnitude.

(B) The provider shall demonstrate, to the satisfaction of the agency, a primary business purpose for the loan other than increasing the per diem rate.

(C) The transaction shall be recognized and reported by all parties for federal income tax purposes.

(c) When the general fund of an ICF-MR "borrows" from a donor-restricted fund, this interest expense shall be an allowable cost if it is considered by the agency to be reasonable. In addition, if an ICF-MR operated by members of a religious order borrows from the order, interest paid to the order shall be an allowable cost.

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(d) The interest expense shall be reduced by the investment income from restricted or unrestricted idle funds or funded reserve accounts, except when that income is from gifts and grants, whether restricted or unrestricted, which are held in a separate account and not commingled with other funds. Income from the provider's qualified pension fund shall not be used to reduce interest expense.

(e) Interest earned on restricted or unrestricted reserve accounts of industrial revenue bonds or sinking fund accounts shall be offset against interest expense and limited to the interest expense on the related debt.

(f) Loans made to finance that portion of the cost of acquisition of a facility that exceeds historical cost or the cost basis recognized for program purposes shall not be considered to be reasonable related to client care. (Authorized by and implementing K.S.A. 39-708c, as amended by L. 1990, Chapter 152; effective, T-30-12-28-90, Dec. 28, 1990 ; effective P- March 4, 1991 .)

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30-10-224. ICF-MR central office costs. (a) Allocation of central office costs shall be reasonable, conform to general accounting rules, and allowed only to the extent that the central office is providing a service normally available in the ICF-MR. Central office costs shall not be recognized or allowed to the extent they are unreasonably in excess of similar ICF's-MR in the program. The burden of furnishing sufficient evidence to establish a reasonable level of costs shall be on the provider. All expenses reported as central office cost shall be limited to the actual client-related costs of the central office.

(b) Expense limitations.

(1) Salaries of professionally qualified employees performing the duties for which they are professionally qualified shall be allocated to the room and board and health care cost centers as appropriate for the duties performed. Professionally qualified employees include licensed and registered nurses, dietitians, qualified mental retardation professionals, and other as may be designated by the secretary.

(2) Salaries of chief executives, corporate officers, department heads, and employees with ownership interests of 5% or more shall be considered owner's compensation and shall be reported as owner's compensation in the administrative cost center. Salaries of the chief executive officers of non-profit organizations shall also be considered owner's compensation and included in the administrative cost center.

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(3) The salary of an owner or related party performing a client-related service for which such person is professionally qualified shall be included in the appropriate cost center for that service.

(4) Salaries of all other central office personnel performing client-related administrative functions shall be reported in the administrative cost center.

(5) All providers operating more than one facility shall complete and submit detailed schedules of all salaries and expenses incurred for each fiscal year. Failure to submit detailed central office expenses and allocation methods shall result in the cost report being considered incomplete. Methods for allocating all program costs to all facilities in this and other states shall be submitted for prior approval. Changes in these methods shall not be permitted without prior approval.

(6) A central office cost limit may be established by the agency within the overall administrative cost center limit.  
(Authorized by and implementing K.S.A. 39-708c, as amended by L. 1990, Chapter 152; effective, T- 30-12-28-90, Dec. 28, 1990 ; effective P- March 4, 1991 .)

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30-10-225. ICF-MR client days. (a) Calculation of client days.

(1) Client day has the meaning set forth in K.A.R. 30-10-200.

(2) If both admission and discharge occur on the same day, that day shall be considered to be a day of admission and shall count as one client day.

(3) If the provider does not make refunds on behalf of a client for unused days in case of death or discharge, and if the bed is available and actually used by another client, these unused days shall not be counted as a client day.

(4) Any bed days paid for by the client, or any other party on behalf of the client, before an admission date shall not be counted as a client day.

(5) The total client days for the cost report period shall be precise and documented; an estimate of the days of care provided shall not be acceptable.

(6) In order to facilitate accurate and uniform reporting of client days, the accumulated method format set forth in forms prescribed by the secretary shall be used for all clients. These forms shall be submitted to the agency as supportive documentation for the client days shown on the cost report forms and shall be submitted at the time the cost report forms are submitted to the agency. Each provider shall keep these monthly records for each client, whether a medicaid/medikan recipient or a non-recipient. If a provider fails to keep accurate records of client days in

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accordance with the accumulated method format, the assumed occupancy rate shall be 100%.

(7) The provider shall report the total number of medicaid/medikan client days in addition to the total client days on the uniform cost report form.

(b) Any provider which has an occupancy rate of less than 90% for the cost report period shall calculate client days at a minimum occupancy of 90%.

(c) The minimum occupancy rate shall be determined by multiplying the total licensed bed days available by 90%. Therefore, in order to participate in the medicaid/medikan program, each ICF-MR provider shall obtain proper certification for all licensed beds.

(d) Respite care days shall be counted as client days and reported on the monthly census forms.

(e) Day care and day treatment shall be counted as one client day for 18 hours of service. The total hours of service provided for all clients during the cost reporting year shall be divided by 18 hours to convert to client days. (Authorized by and implementing K.S.A. 39-708c, as amended by L. 1990, Chapter 152; effective, T- 30-12-28-90, Dec. 28, 1990 ; effective P- March 4, 1991 .)

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This section reserved for future use.

**KANSAS MEDICAID STATE PLAN**

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Part II

Subpart **BB**

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**Methods and Standards for Establishing Payment Rates-  
Skilled Nursing and Intermediate Care Facility Rates**

**(ICFs/MR)**

**Appeal Procedures**

Pursuant to 42 CFR 447.253(c) the State Medicaid Agency in accordance with federal regulations and with state statutes and regulations provides a fair hearing procedure that allows for an administrative review and an appeal by the ICF/MR as to its payment rates before the Administrative Hearings Section of the agency. The appeals procedures are defined in the Kansas Statutes Annotated and Kansas Administrative Regulations.



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## SOCIAL AND REHABILITATION SERVICES

75-3306

mental clinics. The director of mental health and retardation services, in cooperation with the secretary of health and environment, and with the approval of the secretary of social and rehabilitation services, may assist a county in the establishment of outpatient mental health treatment centers or clinics by providing personnel in accordance with rules and regulations adopted by the secretary of social and rehabilitation services.

History: L. 1957, ch. 346, § 1; L. 1973, ch. 369, § 40; L. 1975, ch. 462, § 119; July 1.

**75-3304.** Rules and regulations concerning social welfare. The secretary of social and rehabilitation services may adopt rules and regulations relating to all forms of social welfare.

History: L. 1939, ch. 202, § 4; L. 1949, ch. 446, § 9; L. 1953, ch. 391, § 7; L. 1973, ch. 369, § 41; July 1.

Source or prior law:  
30-705.

Research and Practice Aids:  
Social Security and Public Welfare on 5.  
C.J.S. Social Security and Public Welfare § 9.

**75-3304a.** Responsibility for mental health program. The secretary of social and rehabilitation services is hereby designated as the state agency charged with the administration of the mental health program of the state of Kansas, and such secretary shall have primary responsibility for the state's mental health program, including preventive mental hygiene activities.

History: L. 1961, ch. 403, § 1; L. 1973, ch. 369, § 42; July 1.

Attorney General's Opinions:  
Licensing, inspection and regulation; licensure of psychiatric hospitals. 86-58.

**75-3304b.** Transfer of certain lands from board of social welfare to board of regents. L. 1967, ch. 468, § 1, included by reference. [Transferred certain described state owned lands from jurisdiction and control of the state board of social welfare to the state board of regents.]

History: L. 1967, ch. 468, § 1; July 1.

**75-3305.**

History: L. 1939, ch. 202, § 5; L. 1949, ch. 446, § 10; L. 1953, ch. 391, § 8; Repealed, L. 1967, ch. 434, § 69; July 1.

Source or prior law:  
30-707.

**75-3306.** Appeals to secretary; investigations; subpoenas; hearings, when required; application of Kansas administrative procedure act, exceptions; jurisdiction. (a) The secretary of social and rehabilitation services, except as set forth in the Kansas administrative procedure act and subsections (f), (g), (h) and (i), shall provide a fair hearing for any person who is an applicant, client, inmate, other interested person or taxpayer who appeals from the decision or final action of any agent or employee of the secretary. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

It shall be the duty of the secretary of social and rehabilitation services to have available in all intake offices, during all office hours, forms for filing complaints for hearings, and appeal forms with which to appeal from the decision of the agent or employee of the secretary. The forms shall be prescribed by the secretary of social and rehabilitation services and shall have printed on or as a part of them the basic procedure for hearings and appeals prescribed by state law and the secretary of social and rehabilitation services.

(b) The secretary of social and rehabilitation services shall have authority to investigate (1) any claims and vouchers and persons or businesses who provide services to the secretary of social and rehabilitation services or to welfare recipients, (2) the eligibility of persons to receive assistance and (3) the eligibility of providers of services.

(c) The secretary of social and rehabilitation services shall have authority, when conducting investigations as provided for in this section, to issue subpoenas; compel the attendance of witnesses at the place designated in this state; compel the production of any records, books, papers or other documents considered necessary; administer oaths; take testimony; and render decisions. If a person refuses to comply with any subpoena issued under this section or to testify to any matter regarding which the person may lawfully be questioned, the district court of any county, on application of the secretary, may issue an order requiring the person to comply with the subpoena and to testify, and any failure to obey the order of the court may be punished by the court as a contempt of court. Unless incapacitated, the person placing a claim or defending a privilege before the secretary shall appear in person or by authorized representative and may not be excused from answering questions and supplying infor-

**75-3307 STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES**

mation, except in accordance with the person's constitutional rights and lawful privileges.

(d) The presiding officer may close any portion of a hearing conducted under the Kansas administrative procedure act when matters made confidential, pursuant to federal or state law or regulation are under consideration.

(e) Except as provided in subsection (d) of K.S.A. 77-511 and amendments thereto and notwithstanding the other provisions of the Kansas administrative procedure act, the secretary may enforce any order prior to the disposition of a person's application for an adjudicative proceeding unless prohibited from such action by federal or state statute, regulation or court order.

(f) Decisions relating to the administration of the support enforcement program set forth in K.S.A. 39-753 *et seq.* and amendments thereto except for federal debt set-off activities shall be exempt from the provisions of the Kansas administrative procedure act and subsection (a).

(g) Decisions relating to administrative disqualification hearings shall be exempt from the provisions of the Kansas administrative procedure act and subsection (a).

(h) The department of social and rehabilitation services shall not have jurisdiction to determine the facial validity of a state or federal statute. The administrative hearings section of the department of social and rehabilitation services shall not have jurisdiction to determine the facial validity of an agency rule and regulation.

(i) The department of social and rehabilitation services shall not be required to provide a hearing if: (1) The department of social and rehabilitation services lacks jurisdiction of the subject matter; (2) resolution of the matter does not require the department of social and rehabilitation services to issue an order that determines the applicant's legal rights, duties, privileges, immunities or other legal interests; (3) the matter was not timely submitted to the department of social and rehabilitation services pursuant to regulation or other provision of law; or (4) the matter was not submitted in a form substantially complying with any applicable provision of law.

History: L. 1939, ch. 202, § 6; L. 1947, ch. 425, § 7; L. 1949, ch. 447, § 1; L. 1972, ch. 325, § 1; L. 1973, ch. 186, § 33; L. 1984, ch. 320, § 1; L. 1988, ch. 356, § 302; L. 1989, ch. 283, § 21; July 1.

Source or prior law:  
39-704.

**Law Review and Bar Journal References:**

"Rethinking Kansas Administrative Procedure," Marilyn V. Ainsworth and Sidney A. Shapiro, 28 K.L.R. 419, 435 (1980).

**Attorney General's Opinions:**

Constitutionality of 65-516(a)(3); child abuse validation by the department of social and rehabilitation services. 80-163.

**CASE ANNOTATIONS**

1. Application to appeal by county board of social welfare questioned. *State, ex rel., v. Jackson County Board of Social Welfare*, 161 K. 672, 681, 171 P.2d 651.

2. Venue of appeal from order of state appeals committee of state department of social welfare is in Wyandotte county. *Powers v. State Department of Social Welfare*, 308 K. 805, 608, 483 P.2d 590.

3. Order of state appeals committee of state department of social welfare denying welfare benefits is judicial or quasi-judicial in nature. *Powers v. State Department of Social Welfare*, 306 K. 805, 610, 492 P.2d 590.

4. Cited, section provides proper remedy for persons deprived of rights under social welfare act. *Valkenburgh v. State Board of Social Welfare*, 211 K. 754, 757, 508 P.2d 875.

5. Referred to in upholding appeal to supreme court from ruling by district court on administrative decision; scope of review. *Olathe Hospital Foundation, Inc. v. Eastendicare, Inc.*, 217 K. 546, 550, 539 P.2d 1.

6. Determination of whether Kansas resident who receives care in another state is eligible for medical assistance under 39-709. *Elliott v. State Dept. of Social & Rehab. Serv.*, 3 K.A.2d 494, 507 P.2d 679.

**75-3307.** Real estate of institutions; custody of deeds in secretary of state; control of lands in secretary of social and rehabilitation services; lease of surplus real estate. All deeds or other documents pertaining to titles to real estate in connection with institutions as defined in K.S.A. 76-12a01 shall be placed and remain in the custody of the secretary of state. The secretary of social and rehabilitation services shall have custody and control of such land and the same shall belong to the state of Kansas. The secretary of social and rehabilitation services may enter into lease agreements for real estate surplus to the immediate or long term need of any such institution.

History: L. 1939, ch. 202, § 7; L. 1949, ch. 446, § 11; L. 1953, ch. 375, § 65; L. 1963, ch. 254, § 1; L. 1969, ch. 425, § 1; L. 1972, ch. 326, § 1; L. 1973, ch. 369, § 31; L. 1973, ch. 370, § 1; July 1.

**Cross References to Related Sections:**

Secretary of social and rehabilitation services, see 75-3301.

**Research and Practice Aids:**

Admission to hospital, Kansas Probate Law and Practice § 1116.